

October 8, 2004

HAND DELIVERED

Mr. Art Williams - Director
Louisville Metro Air Pollution Control District
850 Barret Avenue, Suite 200
Louisville, Kentucky 40204-1745

Re: Informal Comments on Proposed Air Toxic Regulations

Dear Mr. Williams:

Oxy Vinyls, LP appreciates that opportunity to provide comments on the referenced rules. Based on the current proposed language we have significant concerns about the content of the proposed rules. Oxy Vinyls, LP supports The District's initiative regarding air emission reductions and is committed to further reduce air emissions but does not feel the proposed regulations will have a significant impact on air quality within the Greater Louisville Metro Area. Oxy Vinyls, LP specific comments are presented in the following text.

Implementation Concerns

We have serious concerns with regard to proposed Regulation 1.06. It is believed that the amount of enhanced emission reporting for affected facilities will off-set little if any fugitive emissions. Furthermore, the District has not justified the need for certain burdensome requirements and has failed to perform an economic impact study regarding the associated costs of the proposed regulations.

At present, the majority of local companies do not have staff or necessary reporting data bases established that can handle this increased workload/data collection. Guidance needs to be provided by the District and companies need to know the specific, not general, requirements that will be required prior to the approval of these regulations. Oxy Vinyls, LP believes The District does not fully realize the resources that will be needed to perform the necessary work (i.e. calculations, gather data, create drawings, install software for data collection, select contractors to gather data, etc.) to be in a position to comply with proposed rules. The economic impact of implementation will place our facility at an unfair advantage with competitors within the United States who would be able to operate under less stringent regulations.

In addition to the potentially burdensome resource requirement, The District does not allow enough time for implementation of the program. Based on the current language the programs under the proposed regulations would have to be enacted within 30-days, which

would not be feasible for a small or even large size facility. For example, our facility would be required to comply with the proposed Leak Detection and Repair (“LDAR”) Program requirements and start implementing the program on January 1, 2005. The Districts goal is to have regulations finalized sometime after November 26, 2004, which if promulgated on November 26, 2004 would only give facilities 35-days to begin program implementation. This does not allow a facility with an estimated number of 20,000 components to be ready to implement a significant dedicated repair program by January 1, 2005. It should be noted that the EPA allows up to 3 years for affected facilities to come into compliance with MACT standards. We believe that if the District plans to move forward with its proposal, more time should be allowed for program implementation.

Emissions Monitoring

Under Section 1, the language provides The District with the authority to require emissions monitoring at any facility for any reason without cause. The requirement for a facility to invest in monitoring equipment should be tied to the need to comply with specific regulatory requirements. In addition, there will be cases where it is not feasible to install or properly operate in-stack monitors due to technology not being available or physical constraints associated with point sources. Such requirements, as proposed, may cost in excess of \$500,000 past \$1,000,000 for a single facility to implement depending on the size and number of chemicals involved. The imposition of these costs on struggling businesses will impact a facility’s ability to remain competitive with overseas competition.

Under Section 3.6, The District does not provide guidance for calculating emissions for industry including those with Title V operating permits. Under current Title V Operating permits, facilities have already submitted to the District how they calculate emissions from their facility. For example, if a facility utilizes an AP-42 emission factor to calculate a particular HAP emission rate, and has listed this as part of their permit application, the question of how would the plant be required to calculate HAP under the proposed regulations needs to be answered. It should also be noted that AP-42 factors are considered conservative estimates based on data collected from industry and that they may actually over estimate emissions.

Under Section 4.6, the proposed regulation gives the District the authority to request submission of data from a facility but it does not specify a time period. This is quite broad and provides no period for completing such a task in addition to not defining the detail of the information when it is requested. Oxy Vinyls, LP would like to see The District specify a time frame (e.g., 60 days) based on the level of detail that will be needed to conform with data request requirements.

As currently written Regulation 1.07, Section 2 “Excess Emissions from a process or process equipment due to startup, shutdown or malfunction” would automatically be deemed a violation of the applicable emission standard. The proposed regulation do not account for situations, which a facility has no control over, or situations where such an event could not be predicted. Oxy Vinyls, LP believes the proposed language gives The District too much authority in determining what is and what is not considered a violation under the startup, shutdown, and malfunction especially if an event such as outside power loss occurs. When determining whether stopping input feed or shutting down process equipment is completed “as soon as possible”, it should be taken into consideration the time it takes facility personnel to investigate the root cause of the malfunction or determine whether the malfunction is actually causing an emission exceedance or whether it is a malfunction of the monitoring equipment and not a true exceedance (for example). The time necessary to stop input feed or shut down processes/pollution control equipment in a manner that will not cause damage to the equipment as well as assure the safety of the facility personnel should also be a consideration.

General Comments Leak Detection and Repair

For facilities, that are already subject to Part 60, 61, or 63, leak detection and repair (LDAR) programs the language in proposed regulations would require facilities to maintain one program under a current applicable federal standard as well as the proposed LDAR program proposed by The District. The current language does not allow one program to supercede another program and Oxy Vinyls, LP believes that The District does not have the authority to replace already existing LDAR programs with one that it chooses. In addition, the District is very specific as to what LDAR program it wants facilities to abide by under the current proposed regulatory language. We find this disturbing because the District has already deemed that the current National Emission Standards for Hazardous Air Pollutants for Vinyl Chloride (Vinyl Chloride NESHAP) as BACT under our current Title V permit. Under Permit No. 212-99-TV a. VOC iii 1. our permit states that;

“And 40 CFR 61 Subpart F, and the NESHAP VCM allowable emissions are deemed BACT: The compliance reporting requirements specified in 40 CFR Subpart F are sufficient to demonstrate compliance.”

If the Vinyl Chloride NESHAP is deemed BACT under our current Title V Permit and is instituting the LDAR program as required under 40 CFR 61 Subpart F why is the language presented in the proposed regulations creating a double LDAR Program for affected facilities.

Federal leak detection programs have been developed over the years to address particular industries, some by specific chemicals others by chemical groupings. Each one of these LDAR programs is not a “one size fits all”. Under the proposed system, companies will need to maintain two separate programs and prepare two separate reports - one for the Federal LDAR Program and one for the APCD Program. The District should continue to

allow facilities subject to Federal LDAR programs to maintain their current LDAR programs. Those that are not subject to a Federal program would be required to conform with the District's requirements.

Oxy Vinyls, LP believes that The District has put too much emphasis on LDAR Program monitoring without realizing that reduction in fugitive emissions can be achieved by lowering leak rates rather than requiring facilities to institute a complex LDAR program. For example, Oxy Vinyls, LP as part of the Vinyl Chloride NESHAAP is required to conduct monitoring on specific equipment and is also required to have a fixed point monitoring system to alert personnel that a potential leak may be occurring. This system allows for quicker response to potential leaks rather than waiting to monitor once per quarter.

Note also that The District has added several subclasses of equipment that are already covered in various LDAR programs. The following equipment are already considered in the connector category: blind flange, heat exchanger head, bolted manway, and hatch, as well as the connections for a sight glass, meter, and gauge. These do not need to be singled out. If connectors, agitators, and/or sampling connection systems are already covered in a Federal LDAR program, then they should not be included in the District program in Section 3.1 or in the accounting of leakers in Section 3.2. Including these equipment types in both the federal leak calculation and the District leak calculation is confusing and misleading.

The requirements in Section 12 of the LDAR requirement should be dropped from the regulation due to several factors including economic and program administration. From an economic standpoint, each facility subject to this proposed regulation may be required to hire and pay an independent third party consultant to perform such an audit. Depending on the complexity of the site, the cost of conducting such an audit could range from \$5,000 to \$20,000 per audit. This cost would have to be absorbed by the facility in addition to the on-going program, which is estimated to cost between \$100,000 for a small facility up to \$175,000 for a larger facility. In addition, due to the complexity of such programs, the majority of companies contract with outside independent contractors to help manage such programs. The cost of such a program, particularly when one is already in place, is burdensome and does not provide any additional protection of the environment.

The audit requirement will do little to reduce the emissions of toxic air contaminants. For example, if an audit uncovers one unmonitored valve in light liquid service, the additional emissions not previously accounted for will be approximately 0.01 lb/yr. (This value is low because the equipment is assumed not to leak; if it had leaked, it would have been found and accounted for while monitoring other nearby equipment.) Even if ten unmonitored pieces of equipment were found by the audit, the cost of the program does not justify the infinitesimal emission quantification.

With regard to overall program administration, the requirement for each company to implement an independent third party audit does not serve a purpose, since the District can inspect a facility's LDAR program at any time. Creating an additional program to manage within the already complex LDAR program becomes more of a burden. Based on the language in the proposed regulations, it seems that the District believes every facility will have one person who will oversee and administer only the LDAR program. For large and small facilities, one individual is tasked with many responsibilities to administer on a day-to-day basis. Hiring an additional person to manage such programs is impractical for businesses making pennies on the dollar in order to maintain profitability in our current global economy. Such additions of personnel in the business world require productivity or cost offsets in order to control costs, in addition to program implementation.

The District requires all of the auditing to be completed in a set period, which seems reasonable, but they have not stated what would be done with the information from the audit and how they derived the period to submit information. Based on the justifications provided, Section 12 of regulation 1.21 should be abandoned and dropped.

Oxy Vinyls, LP, would like to thank The District for the opportunity to present comments on the proposed regulations. If you should have, any questions regarding the contents of the comments presented or require additional information, please feel free to contact my office or HES Managers office at the address listed above.

Sincerely,

T. Kent Lindsey
Plant Manager
Oxy Vinyls, LP

Sean M. Maconaghy
HES Manager
Oxy Vinyls, LP